IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA EASTERN DIVISION

BERNARD JEMISON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:09-cv-00732-RDP-HGD
)	
RICHARD ALLEN, et al.,)	
)	
Defendants.)	

MEMORANDUM OF OPINION AND ORDER

The magistrate judge filed a report and recommendation (Doc. # 28) on September 7, 2010, recommending that Defendants' Special Report (Doc. # 17), which the court has construed as a motion for summary judgment (Doc. #22), be granted in part and denied in part. In particular, the magistrate judge recommended that all claims against Defendants Allen and Mitchell be dismissed, but that the Eighth Amendment claim against Defendant Wise be referred to the magistrate judge for further proceedings. The parties were was advised of their right to file specific written objections within fifteen (15) days, and Plaintiff has filed objections to the report and recommendation. (Doc. # 32).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and Plaintiff's objections, the court is of the opinion that the magistrate judge's report is due to be and hereby is **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** that Plaintiff's claims against Defendants Allen and Mitchell are hereby **DISMISSED**. It is further **ORDERED**

that the remaining Eighth Amendment claim against Defendant Wise is **REFERRED** to the magistrate judge for further proceedings.

The Clerk is **DIRECTED** to serve a copy of this order on Plaintiff.

DONE and **ORDERED** this _____ day of September, 2010.

R. DAVID PROCTOR

UNITED STATES DISTRICT JUDGE